But one of the things that she was most proud of was her effort in passing legislation that led to the Amber Alert system that we have throughout this Nation that, as everyone knows across this country, has saved many lives, lives of our children, our most vulnerable of citizens and victims.

So I am so honored and so proud to be the person who has been given the privilege to follow in such a great lady's footsteps.

Jennifer Dunn, we will all miss you. Our prayers and thoughts go with the family.

AMERICAN PATENT LAW

The SPEAKER pro tempore. Under the Speaker's announced policy of January 18, 2007, the gentleman from California (Mr. ROHRABACHER) is recognized for 60 minutes.

Mr. ROHRABACHER. Mr. Speaker, let me just note for my colleague who just finished his very, very appropriate remarks concerning the passing of Jennifer Dunn, I have three children at home, little Tristen and Anika and Christian; and as a parent, I am very grateful to Jennifer Dunn for the leadership that she provided in helping make our country safer for our children, the children that we all love so much.

And when we talk about the future and I think about my children, we have to think that whatever we do here, we are creating a better world, and it is a better world for our children because they are going to be around a lot longer than we are.

Well, Mr. Speaker, on Friday the House will consider legislation that will have a huge impact on the well-being of the American people and, yes, the well-being of America's children as they get older. Yet this bill will have a great deal to do with whether or not our children have good jobs and live in a secure country.

This bill is receiving very little attention. Very powerful interest groups are trying to sneak this one by us, and if they succeed, they will be enriched and the American people will be worse off.

So what's new? Well, what's new is that this special interest foray is not aimed at just adding an earmark or changing a clause in the tax law to help a specific company. It is a maneuver to dramatically diminish a constitutionally protected right that has served our Nation well. It is a fundamental change in a system that has been in place since our country's founding. That is a lot different than the special interest forays in the past just aimed at changing little elements of the law for their own benefit.

We are talking about fundamentally altering America's patent system. Now, if H.R. 1908, the bill in question, passes, there will be tremendous negative long-term consequences not just for America's inventors but for the country.

Now, patent law is thought to be so complicated and so esoteric that most people tune out once they realize that that is the subject of a discussion. We have probably lost people right now who are reading the CONGRESSIONAL RECORD or watching C–SPAN or our colleagues who are watching this from their offices. But the technology that we are talking about is vitally important to the well-being of our country. Patent law is not so complicated and esoteric because it is that vital to the well-being of our country. Our technological genius and the laws protecting and promoting that genius have been at the heart of America's success as a Nation.

America's technological edge has made American workers competitive with low-priced laborers overseas. It has provided the American people with the highest standard of living in the world, and it enabled our country to sail safely through the troubled waters of world wars and international threats. It is American technology that has made all the difference for our country's security and our people's quality of life.

Protecting individual rights, even for the little guy, has been the hallmark of our Nation. Patent rights, the right to one's own creation, which is what we are talking about when we talk about patent rights, have been considered a fundamental part of our system since our country's founding. In fact, Benjamin Franklin, Thomas Jefferson, George Washington, and others of our Founding Fathers were not the only people who believed in freedom and democracy. They believed in technology and progress.

Visit Monticello and see what Thomas Jefferson did with his time after he penned the words to the Declaration of Independence and after he served as President of the United States. He went back to Monticello and spent his time inventing gadgets and pieces of equipment that would lift the burden from the shoulders of labor. And, by the way, Jefferson was America's first Patent Commissioner.

And then there is Ben Franklin, the inventor of the bifocal and the potbellied stove. Before Benjamin Franklin people could only heat themselves at a fireplace and project heat in a room only from a fireplace. And Benjamin Franklin invented the potbellied stove, which started the whole concept of modern heating. This grand old man, who was present at the Declaration of Independence and the writing of our Constitution, once lamented his own death not by talking about the fear of the unknown and dying but by lamenting that he would not be able to see the great human progress that was bound to happen, the technological advances that would be the byproduct of a free people in the United States of America.

Our Founding Fathers believed that with freedom and with technology, we could increase the standard of living of all our people, not just the elite. Our founders were visionaries, not just about political structures but about a way of life for ordinary people and the future of humankind. Those patriots who laid the foundation of our country wrote into the Constitution a provision they firmly believed was a prerequisite to progress and freedom.

Now, last night after I gave a similar speech on the floor, a teacher, a so-called teacher of history, called my office to complain, ''There is nothing about copyrights or patents in our Constitution.'' I don't know how long he has been a teacher. He said he has been teaching 20 years. But my staff member took out a copy of the Constitution and read to him article I, section 8 of the Constitution, which states in part: ''Congress shall have the power to promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries.'' They held the right of owning one's ideas and creations and inventions as equal to the rights of speech, religion, and assembly. In fact, in the body of the Constitution before the Bill of Rights, the word ''right'' is only used in reference to patents and copyrights. So that shows you the priority that our Founding Fathers placed on the technological development that would create the dream of America that they felt that they were establishing here on this continent.

In short, we have had the strongest patent protection in the world, and that is why in the history of mankind there has never been a more innovative and creative people. And it has been no accident that Americans are the world's great inventors, scientists, and technologists. No, it is not just the diversity of our people, but diversity certainly plays a role and we can be proud of that and it has contributed to our capabilities. It wasn't just our natural resources, although we were blessed with vast territory and natural resources. Our innovation and progress can be traced to our law from the very beginning. It was the intent of those who wrote these protections into our fundamental law, into the Constitution in those earliest days of our Republic, and it was their vision of optimism that motivated them to write this into the law. Our history is filled with stories of technological achievement that flowed from the fact that we had established a country that thought that the rights of ownership of what you create is just as important as your right to speak or the right to worship God as you so choose.

We found people who emerged among us, Eli Whitney, for example, who not only invented the cotton gin but who invented the interchangeable parts for manufacturing. This revolutionized industrial production and dramatically uplifted the well-being of millions of people and, yes, people who were yet to be born.

Cyrus McCormick invented the reaper. Before that the food supply for our

people was limited. People went to bed hungry, large numbers. Cyrus McCormick invented a reaper that made sure that every person would have bread enough to eat, that children would be fed.

Samuel Morse invented the telegraph, which eventually led, of course, to the telephone and revolutionized a whole idea of communications throughout the world. Thomas Edison, the light bulb and so many other inventions.

Interestingly, black Americans were prolific inventors even at times when they were terribly discriminated against because patent law was one law that was justly applied to them for the most part, although there were issues of discrimination even in that area. But compared to the other areas where they were totally discriminated against, there was some leeway in our society. And black inventors emerged, as is predictable, because that was their avenue to rise up. Men like Jan Matzeliger, who invented a machine that was used in shoe manufacturing that dramatically changed the shoe industry to the point that the average person after Matzeliger's invention could afford to have more than one pair of shoes in his life.

□ 1930

Before that they were so expensive, people had one pair of shoes that they repaired for the rest of their lives.

George Washington Carver, another great black inventor, a great scholar, a world-respected scientist, and so many more like him. We are proud that our history advanced technologies because we know, as Americans, as we have always known, that through our country's history, that the inventions that we're talking about produced more wealth with less labor, thus increased the standard of living of all people and the opportunity for all people who are part of our country's brotherhood and sisterhood to share in the benefits, in the fruits of this free society.

And yes, we have had problems in the past and there was discrimination against black Americans, obviously. Slavery was a blight on our system, a sin. But as we have tried to produce more wealth, and the more wealth that has been produced and the more opportunity that's been available, the easier it's been for our society to try to correct those terrible crimes and sins of the past. And black Americans have done their share, more than their share, in producing these inventions that have helped our country.

By and large, the inventors were not part of large corporate structures. They were, by and large, little guys, people who didn't have vast companies behind them, which leads us, of course, to the Wright brothers.

We remember the Wright brothers, men with little education that worked in a bicycle shop. They owned a bicycle shop and ended up inventing something a little more than 100 years ago that they were told was impossible to invent, impossible to build by the experts. They had no huge corporate structures behind them, so thus they didn't have a board of directors that prohibited them from their research or directed them in a way that would have prevented them from being successful. They went forward, they invested their time, and they invested their limited resources. And they changed the future of humankind forever as they took mankind's feet off the ground and put us on the road to the heavens. The patent issued to the Wright brothers is perhaps one of the most significant documents in the history of all mankind.

Let us understand that it was not raw muscle nor was it just hard work that built our country. People work hard all over the world and live in abject poverty. It is not our vast territory or natural resources. It was, instead, our ingenuity, our intelligence, and yes, the legal system that was established to protect that ingenuity and the intelligence and the creativity of our people.

We treated intellectual property, the creation of new technologies, as we treated property and personal rights and political rights. They were held in the same esteem in the United States of America. And that is what America is all about, that every person's rights were to be respected and protected. As I say, we didn't always live up to that dream, but it was our standard. We held those high standards and it served us well. Now we have people trying to undermine those standards for personal gain.

Today we face a great historic challenge, and this challenge comes exactly at a time when our country faces economic threats from abroad as never before. We must prevail over our economic competitors. They are at war with the well-being of the American people. We must win, or our country and our people will lose. My children, Anika, Tristen and Christian, they will lose. Your children, all of our children will have worse lives in the future if we lose this battle, this economic battle that we are fighting today. Yes, our people will suffer.

Future generations could well see their standard of living decline, the opportunity of their young people vanish, as well as the safety and strength of our country, which all leads us to the legislation that will be considered on Friday. Very powerful corporate interests, mainly billionaires in the electronics industry and the financial industry, are on the verge of fundamentally changing the U.S. patent system, and it will have dire consequences for the American people. So our colleagues need to pay attention.

Let us be clear and specific; the legislation in question, H.R. 1908, will dramatically weaken the patent rights of ordinary Americans and make us even more vulnerable to the outright theft of American-made technology and innovative ideas.

The purpose of the legislation is to weaken the patent system. Those people in the electronics industry and the financial industry do not want to pay royalties; they do not want to be hampered by watching out for and respecting the ownership rights of our inventors anymore.

This legislation is a slow-motion destruction of the patent system. No one will be candid enough to admit it, but the real reason for this and past forays against the patent system is aimed at the destruction of the system; it is not to make it better. No one is going to admit it. They're going to say they're here trying to reform the system. It is not aimed at that; it is aimed at destroying the system. The word ''reform'' is being used as a cover just as it was a cover in the immigration battle. We all remember that. People talked about comprehensive immigration because the real purpose, as we all know, was amnesty in that bill that was making its way through Congress. Everybody knows that. And amnesty would have brought tens of millions more here, at least that was debatable. Well, we should have talked about it and debated that issue. Instead, we heard about comprehensive reform as if it was going to solve a problem and make the immigration influx into our country, bring it under control. No. The purpose of that bill was amnesty.

When they talk about reform of our patent system, what they're really talking about is destroying the patent system and weakening its protection. They couldn't pass it otherwise.

There are some real problems that need to be solved with our patent system. Unfortunately, the legislation making its way through the system does not correct the problems, just as the comprehensive amnesty bill or comprehensive immigration bill didn't solve the problems. The problems are being used as an excuse to act. But the proposed changes are aimed at a totally different and indefensible goal. It is a power grab, a classic power grab where we are not having an honest debate, an honest exchange of ideas with the American people.

So we readily admit, those of us who are in opposition to the bill that will come to the floor Friday, H.R. 1908, we admit that we need patent legislation, legislation that speeds the examination and issuance of patents, helps the process, the examination process and the issuance process, provides training and compensation for patent examiners. We need legislation that does just that. We need legislation that will protect our inventors against theft, especially against foreign theft, where our own creative genius of our people is being taken and stolen by foreigners and then put into their manufacturing to outdo the United States, to put us out of business; our own creative genius used against us. Yes, we need to fix these problems with the patent.

The bill has this goal, and supposedly they talk about it. And if that was the

goal, it would be welcomed. Well, it also has been a straw man to justify this revolutionary altering of our patent system, of course. What we need, of course, is to correct the problems in the current system, not to destroy the system.

This comprehensive bill that we face, interestingly enough, is similar to a bill that came up 10 years ago that we managed, with public outcry, just like the outcry that stopped the immigration bill in the Senate. We stopped a bill like this 10 years ago. I called it the ''Steal American Technologies Act.'' Well, the same group of people, the same interest group that tried to push that is back. And so if you take a look at this bill, we might call it the ''Steal American Technologies Act Part 2.''

So just what does H.R. 1908 do? First and foremost, it is designed, as I say, to weaken the patent protection of American inventors. So we support real reforms, but the proposed changes in H.R. 1908 will cause the collapse of the patent system that has sustained America for the past 200 years.

The negative impact of the totality of this bill is reflected in the wide spectrum of opposition who are now mobilizing against it.

For the RECORD, I would submit this list of those who are opposing H.R. 1908, and I would ask this to be included in the RECORD at this point.

ORGANIZATIONS AND COMPANIES WHICH HAVE RAISED OBJECTIONS TO PATENT LEGISLATION (H.R. 1908)

Organizations and Companies Raising Objections to H.R. 1908, the Patent Reform Act of 2007: 3M, Abbott, Accelerated Technologies, Inc., Acorn Cardiovascular Inc., Adams Capital Management, Adroit Medical Systems, Inc., AdvaMed, Advanced Diamond Technologies, Inc., Advanced Medical Optics, Inc., Advanced Neuromodulation Systems, Inc., Aero-Marine Company, AFL–CIO, African American Republican Leadership Council, AIPLA—American Intellectual Property Law Association.

Air Liquide, Air Products, ALD NanoSolutions, Inc., ALIO Industries, Allergan, Inc., Almyra, Inc., AmberWave Systems Corporation, American Conservative Union, American Intellectual property Law, Association (AIPLA), American Seed Trade, Americans for Sovereignty.

Americans for the Preservation of Liberty, Amylin Pharmaceuticals, AngioDynamics, Inc., Applied Medical, Applied Nanotech, Inc., Argentis Pharmaceuticals, LLC, Arizona BioIndustry Association, ARYx Therapeutics, Ascenta Therapeutics, Inc., Association of University Technology Managers (AUTM).

Asthmatx, Inc., AstraZeneca, Aware, Inc., Baxa Corporation, Baxter Healthcare Corporation, BayBio, Beckman Coulter, BIO—Biotechnology Industry Organization, BioCardia, Inc., BIOCOM, Biogen Idec, Biomedical Association, BioOhio, Bioscience Institute, Biotechnology Council of New Jersey.

Blacks for Economic Security Trust Fund, BlazeTech Corporation, Boston Scientific, Bridgestone Americas Holding, Inc., Bristol-Myers Squibb, BuzzLogic, California Healthcare Institute, California Healthcare Institute (The), Canopy Ventures, Carbide Derivative Technologies, Cardiac Concepts, Inc., CardioDynamics, Cargill, Inc., Cassie-Shipherd Group (The), Caterpillar, Celgene Corporation, Cell Genesys, Inc., Center 7, Inc., Center for Small Business and the Environment, Centre for Security Policy, Cephalon, CheckFree, Christian Coalition of America.

Cincinnati Sub-Zero Products, Coalition for 21st Century Patent Reform, Coalitions for America, CogniTek Management Systems, Inc., Colorado Bioscience Association, Conceptus, Inc., CONNECT, Connecticut United for Research Excellence, Cornell University, Corning, Coronis Medical Ventures, Council for America, CropLife America, Cryptography Research, Cummins-Allison Corporation.

Cummins Inc., CVRx Inc., Dais Analytic Corporation, Dartmouth Regional Technology Center, Inc., Declaration Alliance, Deltanoid Pharmaceuticals, Digimarc Corporation, DirectPointe, Dow Chemical Company, Dupont, Dura-Line Corporation, Dynatronics Co., Eagle Forum, Eastman Chemical Company, Economic Development Center, Edwards Lifesciences, Elan Pharmaceuticals, Inc., Electronics for Imaging, Eli Lilly and Company, Ellman Innovations LLC, Enterprise Partners Venture Capital, Evalve, Inc.

Exxon Mobile Corporation, Fallbrook Technologies Inc., FarSounder, Inc. Footnote.com.

Gambro BCT, General Electric, Genomic Health, Inc., Gen-Probe Incorporated, Genzyme, Georgia Biomedical Partnership, Glacier Cross, Inc., GlaxoSmithKline, Glenview State Bank, Hawaii Science & Technology Council, HealthCare Institute of New Jersey, HeartWare, Inc., Helius, Inc., Henkel Corporation, Hoffman-LaRoche, Inc.

iBIO, Imago Scientific Instruments, Impulse Dynamics (USA), Inc., Indiana Health Industry Forum, Indiana University, Innovation Alliance, Institute of Electrical and Electronics Engineers (IEEE)–USA, InterDigital Communications Corporation, Intermolecular, Inc., International Association of Professional and Technical Engineers (IFPTE), Invitrogen Corporation, Iowa Biotechnology Association, ISTA Pharmaceuticals, Jazz Pharmaceuticals, Inc., Johnson & Johnson, KansasBio, Leadership Institute, Let Freedom Ring, Life Science Alley, LITMUS, LLC.

LSI Corporation, Lux Capital Management, Luxul Corporation, Maryland Taxpayers' Association.

Masimo Corporation, Massachusetts Biotechnology Council, Massachusetts Medical Device Industry Council, MassMEDIC, Maxygen Inc., MDMA—Medical Device Manufacturer's Association, Medical College of Wisconsin, MedImmune, Inc., Medtronic, Merck, Metabasis Therapeutics, Inc., Metabolex, Inc., Metacure (USA), Inc., MGI Pharma Inc., MichBio, Michigan Small Tech Association, Michigan State University, Millennium Pharmaceuticals, Inc., Milliken & Company, Mohr, Davidow Ventures, Monsanto Company, Motorola.

NAM—National Association of Manufacturers, NanoBioMagnetics, Inc. (NBMI), NanoBusiness Alliance, NanoInk, Inc., NanoIntegris, Inc., Nanomix, Inc., Nanophase Technologies, NanoProducts Corporation, Nanosys, Inc., Nantero, Inc., National Center for Public Policy Research, Nektar Therapeutics, Neoconix, Inc., Neuro Resource Group (NRG), Neuronetics, Inc., NeuroPace, New England Innovation Alliance, New Hampshire Biotechnology Council, New Hampshire Department of Economic Development, New Mexico Biotechnical and Biomedical Association, New York Biotechnology Association.

Norseman Group, North Carolina Biosciences Organization, North Carolina State University, North Dakota State University, Northrop Grumman Corporation, Northwestern University, Novartis, Novartis Corporation, Novasys Medical Inc., NovoNordisk, NUCRYST Pharmaceuticals, Inc. NuVasive, Inc., Nuvelo, Inc., Ohio State University, OpenCEL, LLC.

Palmetto Biotechnology Alliance, Patent Café.com, Inc., Patent Office Professional Association, Pennsylvania Bio, Pennsylvania State University, PepsiCo, Inc., Pfizer, PhRMA—Pharmaceutical Research and Manufacturers of America, Physical Sciences Inc., PointeCast Corporation, Power Innovations International, PowerMetal Technologies, Inc., Preformed Line Products, Procter & Gamble, Professional Inventors' Alliance, ProRhythm, Inc., Purdue University, Pure Plushy Inc., QUALCOMM Inc.

QuantumSphere, Inc., QuesTek Innovations LLC, Radiant Medical, Inc., Rensselaer Polytechnic Institute, Research Triangle Park, NC, Retractable Technologies, Inc., RightMarch.com, S & C Electric Company, Salix Pharmaceuticals, Inc., SanDisk Corporation, Sangamo Biosciences, Inc., Semprius, Inc., Small Business Association of Michigan—Economic Development Center, Small Business Exporters Association of the United States.

Small Business Technology Council, Smart Bomb Interactive, Smile Reminder, SmoothShapes, Inc., Solera Networks, South Dakota Biotech Association, Southern California Biomedical Council, Spiration, Inc., St. Louis University, Standup Bed Company (The), State of New Hampshire Department of Resources and Economic Development, Stella Group, Ltd., StemCells, SurgiQuest, Inc.

Symyx Technologies, Inc., Tech Council of Maryland/MdBio, Technology Patents & Licensing, Tennessee Biotechnology Association, Tessera, Inc., Texas A&M, Texas Healthcare, Texas Instruments, Three Arch Partners.

United Technologies, University of California System, University of Illinois, University of Iowa, University of Maryland, University of Michigan, University of Minnesota, University of New Hampshire, University of North Carolina System, University of Rochester, University of Utah, University of Wisconsin-Madison, US Business and Industry Council, US Council for International Business.

USGI Medical, USW—United Steelworkers, Vanderbilt University and Medical Center, Virent Energy Systems, Inc., Virginia Biotechnology Association, Visidyne, Inc., VisionCare Opthamalogic Technologies, Inc., Washington Biotechnology & Biomedical Association, Washington University, WaveRx, Inc.

Wayne State University, Wescor, Inc., Weyerhaeuser, Wilson Sonsini Goodrich & Rosati, Wisconsin Alumni Research Foundation (WARF), Wisconsin Biotechnology and Medical Device Association, Wyeth.

This list includes biotech industries, the pharmaceutical industry, small businesses, labor unions, universities, patent examiners, and of course inventors. And that's just a very small part of the list, as you will see with those people reading the CONGRESSIONAL RECORD.

And why are so many of these people, why are such a large number of people opposed to it? Perhaps the easiest to understand of why people are against this bill is the issue of disclosure. In this bill, disclosure is called ''publication.'' From the time of the founding of our country until recent years it was mandated by our law that every patent

application would be held confidential until the patent was issued. In fact, if a patent examiner left out some information about a patent application, they could end up in jail. It was a felony. Well, this bill is going to change all of that.

We have had a system that's been dramatically different from the rest of the world in this confidentiality, and it was this element that has been a major success for us. Yet in the legislation, H.R. 1908, as well as the legislation we beat 10 years ago, that's one of the first things they're trying to do is end the confidentiality. In fact, this bill, H.R. 1908, at this point eliminates the right of confidentiality for American inventors. H.R. 1908 would mandate the publication of all patent applications 18 months after the patent is applied for, whether or not the patent has been granted. Is everybody getting that? This bill will mandate that the people of India and China and Korea and elsewhere will have all of the details of our patent applications, our most cutting-edge secrets, before the patent is issued. It will be on the Internet.

Now, let's look at the numbers. 89,000 American patents were issued by the Patent Office last year; 32 percent of them went to small business or those companies who employ less than 500 employees. Twenty percent of U.S. origin patents, 20 percent of the patents chose to opt for the current provision of law that will prevent their application from being published before the patent is issued. So right now they have a right to opt for that because if people that apply for international patents, their patent is published after 18 months. But we have 20 percent of the U.S. origin patents opted not to permit their patent application to be published after 18 months. Last year, that means 20,000 inventors, about two-thirds of all small business inventors, chose to keep their patent secret and keep it away from the prying eyes of China, Japan, Korea, India and others who would steal their new innovations.

And you don't have to take my word that these countries want the bill passed for sinister purposes. Just look at this quote from the Economic Times of India dated July 23, 2007. Listen to this, and I quote, ''A crucial bill making its way through the U.S. Congress is set to give new inexpensive options for the Indian drug makers to attack the patents that give monopoly rights to the top-selling multinational corporation brands in the largest pharmaceutical market.'' Did you get that? That means they're waiting so that our pharmaceutical companies can invest hundreds of millions of dollars to try to develop a new drug, and they know they're going to get it. The Indians already are saying it's an inexpensive option for the Indian drug makers because they're going to be able to take that information and get more drugs on the market there before our own people are able to get those drugs, and the hundreds of millions of dollars of research of our companies will be just stolen.

That's why the pharmaceutical industry is against this bill. It is estimated that already at this time the U.S. economy loses $250 billion a year from global intellectual property theft. This bill would double or triple that loss, and in the long run, equip our economic adversaries with what they need to compete with us and to drive Americans out of business. Got that? Our own technology being used to destroy American jobs.

It's our technology and our technological advancement that has let American workers compete with low-price workers overseas. Now they're going to change our laws because certain elements in our high-tech industries, meaning the electronics industry and the financial industry, do not want to pay royalties to our inventors; that we're going to provide this information to the rest of the world so they can steal it and use it against us. Doesn't sound like anybody's watching out for the interests of the American people.

Well, it should be easy for everyone to understand that part of the bill. And, in fact, the authors of the bill, even though they stuck to this, they put it in the bill originally. And 10 years ago they tried to push this same thing. They now say they're going to try to amend the bill so that provision isn't as tough.

□ 1945

Well, what about the other provisions of the bill? Even if this provision comes out, because they know it is just too easy to understand how horrible that would be for America, the other provisions are just as bad. It is just that they are harder to understand.

So if the publication requirement comes out, people should understand that that, too, is part of a strategy to get the rest of the bill in which would undermine America's inventors. Those pushing H.R. 1908 want China, Japan, Korea and India and others to know every detail of developing technologies and our creative ideas, even before the patents have been issued. So we understand, this will facilitate that. That is pretty easy to see when you are talking about giving them all the information.

Just as bad, however, this bill opens up new avenues of attack for those foreign and domestic business predators who would purposely infringe on the inventor's patent rights. So, what we are doing, the rest of these provisions, that is easy to understand, this publication, you know, anyone can see, that is asking everybody around the world to steal our ideas and use them against us. Well, these other ideas are just as damaging. They basically would help foreign and domestic predators against our inventors.

H.R. 1908 would open up new doors of attack both before a patent is issued and after it is issued. Before, in expanded, what they call inter partes examination which, in effect, gives the infringers of a patent another opportunity to challenge every patent that they are infringing upon.

Once at the Patent and Trademark Office, and if unsuccessfully, if they fail the first time, they can try again in a court after the patent has been issued. So even if they had challenged the issuance of a patent beforehand in the current process, this bill allows them then to again challenge it after the patent has been issued in court, which dramatically increases the cost for the inventor, freezing out the little guys. It allows powerful corporate third parties to sit in and state their case while someone is trying to get their patent.

Yet again, this is an avenue given to the large corporate interests. And what does it do? It punishes the little guy. Then afterwards, we have a whole new postgrant review. Now that is in the beginning. They have a right to sit in on the process and to basically try to disrupt the patent process in the very beginning stages so the little guy has a tough time getting it granted. But then afterwards, there is a whole new postgrant review. This means that after the patent has been issued, we make it easier for the big guys to keep coming back and attacking the right of the person who developed this new technology. The new postgrant review lowers the bar of proving that a patent is invalid. Thus, we have actually changed the standard that has protected our inventors against aggressive and unjustified attacks by people challenging them.

Currently, the patent challenger must prove a patent's invalidity, prove that a patent is invalid by clear and convincing evidence. That is a quote, ''by clear and convincing evidence.'' They are going to change that to the ''preponderance of evidence.'' How will that affect the patent system? What we have here is an attempt to change that wording and change the standard in a way that weakens the foundation that a patent holder relies upon in terms of all of the legal defenses that he has to make. We end up with a situation where investors are going to hesitate to get involved with any small inventors because we now have changed the basic rules that have protected the small inventors against unjustified attacks.

In fact, Mr. Speaker, as with the immigration bill, this is not a fix. None of this is a fix. It will just make it worse. The corporate elite tells us that this will reduce lawsuits. Well, Mr. Speaker, I am confused, because the system that is now being used in Europe which is the system that they are proposing that we now put into our system, the same postgrant review system, they are trying to change our rules to make the same rules as they do in Europe. Well, Europe has three times the number of lawsuits that are filed in attempts to steal the patent rights of the inventor through lawsuits than we have in the United States.

So what is this going to do? It is going to flood our system with lawsuits. Of course, lawsuits are expensive. The little guy loses. In fact, Japan dropped this element from their system because it produced too many lawsuits. They dropped it in 2004. So while we are strengthening the chance of the big guy to attack the little guy even after the patent has been granted, they found it to be a disaster in Japan. They discarded it. In Europe, it causes three times the number of lawsuits.

Mr. Speaker, this is not the right path to take. It is not reform. It will make things worse.

I am going to yield to my good friend, MARCY KAPTUR, in one moment. But let me just note one other element here before we do. We hear about the widespread problem with patent lawsuits. This is something we hear about all the time. This is why we have to pass this legislation. Well, there are horror stories concerning some companies that have been tied up, very few, but some have been tied up and eventually having to relent to trial lawyers because of delays in the patent system. We also know about the examiners who are overworked. We know that our patent examiners are underpaid. They aren't getting the training they need and the proper education they need. Yes, we need to fix that.

In reality, patent lawsuits, of course, do not stem from these problems. Lawsuits are not a major problem. In fact, between 1993 and 2005, the number of patent lawsuits versus the number of patents granted has held steady. So although we have problems in the system, that is not what is resulting in a higher number of lawsuits. In fact, in 2006, there were only 102 cases that actually went to trial.

Mr. Speaker, this number is far below the average number of cases that that one District Court judge sees annually. And it is far fewer than what they have over in Europe. Of course, there is room for improvement, and I readily admit that. But this is not a crisis that demands us to dramatically change the fundamental nature of the system.

Mr. Speaker, as we get into more of a discussion of this, my friend, MARCY KAPTUR, who has stood beside me in this fight for the last 10 years trying to protect the little guy, realizing that unless we protect the American inventor and American technology, that American workers and the standard of living of our people are going to decline, and that countries like Japan, India and others will steal our technology and use it to put our people out of work, this is a champion of the working people of our country. And we have a Republican-Democrat coalition here, as we will see on Friday.

I would now yield whatever time she may consume to the gentlewoman from Ohio (Ms. KAPTUR).

Ms. KAPTUR. Mr. Speaker, I would thank the fine gentleman from California (Mr. ROHRABACHER) for securing the special order time this evening and join him in his special order concerning the patent bill that will be coming up later in the week.

I share his concern that this bill is not reform, and with what is happening across our country with the outsourcing of jobs, now is not the time to weaken U.S. patent protection, which is a constitutional protection going back to the founding of our Republic.

Congressman ROHRABACHER has gone through a lot of the technicalities of what is involved in this bill that is coming before us. Let me just say that there was a magazine article published back in June by Manufacturing and Technology News in their June 29, 2007 issue. Viewers can go to www.manufacturingnews.com and pick it up. It was written by Dr. Pat Choate. What I find particularly compelling about this article is it gets into who actually is driving this bill and why is this bill coming at us, a bill that will weaken protections for U.S. inventors, or those that file in our country, at a time when we were hemorrhaging jobs, certainly in the manufacturing sector, but not just that sector, and at a time when our trade deficit is now close to $1 trillion a year, a time when our budget deficit and our trade deficit is so high that the Federal Reserve a week ago had to resort to creating money, printing money and shoving it into our financial system to try to prop it up.

What is happening? Why would this bill be coming up now? We know that the forces that are driving this bill are very large corporations, transnational corporations, the very ones that are moving our jobs offshore. And what they are about is that sometimes those very big companies get sued because they infringe on other people's patents. They then go to court and lose, and they are forced to pay fines. In response, because they don't like that, they are financing an expensive lobbying propaganda and legal campaign to weaken our patent laws.

They are using the wrong measure. What they should do is stop infringing on other people's patents and not try to change the whole patent system as a solution to their predicament. Let me just place a number on the record that is quoted in this article. And I don't know that the gentleman has done this yet this evening, but between 1993 and 2005, four of these big companies paid out more than $3.5 billion in patent settlements. But in the same period, their earnings were more than $1.4 trillion, making their patent settlements only about one-quarter of 1 percent of their revenues. Now they wish to reduce even those costs, not by changing their obviously unfair and often illegal business practices, but by persuading Congress and also the Supreme Court to weaken U.S. patent protections which have been guaranteed since the founding of the Republic. They have tried to convince Congress that there is some type of litigation crisis. As the gentleman has just properly outlined, there is no litigation crisis in the courts relating to patents.

Mr. ROHRABACHER. There are 102 cases over a year, which is basically what one judge sees. There is no litigation crisis. But again, as you are aware, what we have here is they are trying to use that as cover to try to do something else, because the bill is not aimed at correcting that. The bill is aimed at permitting these large companies to take, at will, from America's inventors.

Ms. KAPTUR. We know how much they have been taking in other ways, taking health benefits away from our people, taking good wages away from our people, literally taking jobs and transporting them someplace else. And our patent system has been at the basis of the creativity of this country. It is a great, great system

By the way, I will say for the record, there is a website one can go to, www.uscourts.gov/caseload2006. contents.html. And on that site, you can look at these various cases to see that the courts aren't overloaded. The courts aren't saying they are overloaded in terms of suits relating to patents. But one of the parts of the bill that truly, truly concerns me, and why I shall vote against it, is that these very large transnational corporations want to change the longstanding practice of the U.S. Patent and Trademark Office of granting a patent to the person who actually invented it. We call it ''first to invent.'' They want to change it to ''first to file.'' In other words, if they get the system they want, which means that an inventor takes their brilliant idea to the Patent and Trademark Office, even before it is approved, it has to be posted on a Web site, and somebody in China or somebody in Tokyo can take that, file it in their country, and they say, ''grant the patent to the first to file.'' Not the first to invent.

We protect individuals in this country. We protect that intellectual capital. To even suggest that we should go to a system that the gentleman has said that exists in Europe, for example, that is not the American system. Before the American system of economics got captured by these globalists who are controlling Wall Street and some of these big decisions that are hollowing out communities across this country, we had a country that respected the Constitution and the right of the inventor. You. The person who actually created the idea, whether you are a musician, whether you are an electronics expert, whether you are an automotive expert, whether you make a decent paper towel hanger for your kitchen, if you have a better idea, our legal system protects you against the large companies and the small.

□ 2000

Ms. KAPTUR. You have a right to your idea.

Mr. ROHRABACHER. The fundamental rules that were laid down 200

years ago on the very subject, for example, not just the confidentiality, which they are trying to destroy, but the subject that you brought up is first to file, versus the concept that we had in our system for over 200 years, which is that we respect the person who is the first to invent.

Inventors have told me over and over again that if we change our system, and, by the way, in Europe and Japan that is the way their systems are, and, of course, they don't protect the little guy. Their systems were designed at a time when they weren't talking about individual rights, but were trying to protect corporate interest in their country.

But first to file would flood our system with patent applications day after day after day. The large corporations who can afford to make a new filing every time there is a little step forward, you would end up flooding the system, as compared to what it is today. Talk about delays in the patent system. It would have a horrible impact.

In fact, some of the other things that they are suggesting also in terms of these, on June 7th, 2007, a letter to Congress from Chief Judge Paul Michael of the U.S. Court of Appeals for the U.S. Federal Circuit Court warned Congress that the learning curve for all of these changes that they are talking about, especially the first to file and the various changes in the standards, will result in additional court delays that would be severe and would add additional attorneys fees and costs.

So that is what we have. In the name of trying to prevent a glut, which they say now is flooding our courts, when there are only 102 cases, they are going to create changes that will flood our courts and add dramatically to the cost for an individual inventor.

Ms. KAPTUR. If the gentleman would be kind enough to yield to me again, it would force our inventors to defend themselves in a way that they don't have to today to go through all these additional bureaucratic hurdles, because under the current system we protect your idea, we protect your right as an inventor, no matter how small you are.

In fact, if you look at the patents filed every day, which I look at as the seed capital of the future of this economy, a third of those patent applications are from very small inventors. They are from universities. We see every day major counterfeiters around the world taking our ideas and doing knockoffs. They actually come to your district, Congressman ROHRABACHER, before they come to mine, because you have got that port down there in Southern California.

But we know how counterfeiting occurs and what the potential is in other places to cheat, and we have protections for our people against that.

Mr. ROHRABACHER. If I might add, the protections we have had, there are penalties that companies will pay, and you mentioned that those large corporations paid $2 billion, or I forget the exact figure you used, in terms of damages. Well, this bill would reduce the amount of damages that can be collected from a patent owner, an inventor who has been violated by an infringer.

If a company steals someone's nice idea and does not pay them for it and starts using it, especially foreign companies, this bill actually reduces the amount of money that can be expected by changing the criteria of how you can assess damages. What you will end up with is it won't be worthwhile for the inventor to have to pay the lawyers and go after these infringers, and our inventors will be high and dry, the technology that they do invent will go overseas, so they will cease to invent.

Who is going to be worse off? Everybody is going to be worse off.

Ms. KAPTUR. It would seem to me that at this point in our country we would be wanting to encourage innovation here in the United States. We want to be rewarding those people who are creating the future, whether it is in agriculture, whether it is in transportation, whether it is in medical care.

We have all seen the companies in our district where jobs are growing, and they begin with invention, they begin with creativity guaranteed by our Constitution. Why would we make it more difficult for them in the courts? Why would we make it easier for those who want to take their idea or get a sneak preview of their idea before their patent is granted? Why would we want to give them greater advantage in this struggle for jobs in America? It is beyond me. But I understand power and I understand the power of these companies.

Mr. ROHRABACHER. It is easy to understand why it is going on, because the bill that is coming forward on Friday, H.R. 1908, that bill is designed not to help American competitiveness. That bill is not designed to protect the property rights of inventors. That bill is totally designed for the purpose of weakening the system for the American inventor and protecting the ability of the big guys, the guys who are shipping the jobs to China already, that is how much they care about us, to protect their ability to use technology and to steal it without having to pay for it. That is the purpose. It weakens it. The whole bill is designed to weaken the patent system.

As I have used the example of the immigration bill before, where people didn't want to talk about amnesty, everybody knows that was the real purpose. They used the word ''comprehensive'' to cover up that and not to debate amnesty.

This bill, the ''comprehensive reform bill,'' is designed to weaken the system, but they are using ''reform'' as a word to make it sound like they are trying to improve things.

Let us note the reason. If you ask these big companies and the people proposing this why we have to do it, they are not going to tell you we are doing it for the big guys. We are doing it because the financial industry and the electronics industry, they don't want to pay royalties, and they do their manufacturing overseas, so they don't care about the American worker anyway. They are not going to say that. What they are going to say is we need to harmonize all of our laws dealing with economics. We need to get up with the rest of the world. It is called harmonization. We heard that 10 years ago. We have to harmonize our law with the rest of the world.

We have had the strongest protection for patent rights of any country in the world since our country's founding, and it has served us well. Now they want to harmonize it with the rest of the world by lowering our standards, by lowering our protection.

If we did that with other freedoms, the freedom of religion, the freedom of speech, there would be a revolution in our country, because if we want to push for all countries to have one standard, well, they should be increasing their standards to meet our level of protection of rights, not having us lower the protection that we have for our individual citizens.

Ms. KAPTUR. Yes. And you know at this time in this country, where it is hard to find a good paying job, it is really very hard, some of these companies that are trying to weaken our patent system actually pay their staffs less than companies that are in communities like I represent, where people earn a living wage.

These companies also outsource a lot of jobs related to component manufacture and so forth. I find it interesting that they have so much power and they have so much influence that now they are trying to, in a way, take away the potential for districts like mine to reinvent themselves by protecting those who are creating new ideas. In fact, they want to get rid of this opt-out provision, where if you are a small inventor and you file as first-to-invent at the Patent Office, you have a choice whether you want foreign entities to be able to see that invention now. They have this opt-out provision, where you protect yourself before you are able to get the approval and try to get the money to manufacture or provide the service that you want to provide.

This will make it very difficult. About half of the inventions that we have come from small businesses, universities and independent inventors who select that opt-out provision.

Mr. ROHRABACHER. Right, because they don't want the foreign interests to have all that information even before they get issued the patent.

Ms. KAPTUR. Absolutely. I don't think the average American understands how hard it is to get the money to start up your company. Once you have filed and gotten the patent itself, it is not easy if you are a small inventor. Why would you want to reveal that abroad?

Mr. ROHRABACHER. Clearly, when we are talking about harmonizing our laws with the rest of the world, this is not an excuse to dramatically bring down the rights that have been enjoyed, the protections our people have enjoyed, and which have assured America's prosperity and the security of our people.

In fact, let's take a look at these huge electronics corporations and huge financial interests that are pushing H.R. 1908. These are the same companies that build their manufacturing units in China and have built up the economy of China so they can outcompete Americans. These are the same companies that have actually worked with a despotic gangster regime in Beijing so that their computers can be used to help track down political dissidents.

They tell us, well, we have to improve the economy of China in order to have them evolve into a more peaceful and more Democratic country. That is baloney. What they are doing over there is getting a quick profit. They are sitting over there getting their blood money at a 25 percent profit a year, when if they would have the same projects and have the same manufacturing in the United States, perhaps they would only make a 5 or 10 percent profit.

What it is, they have no loyalty to American ideals and they don't have a loyalty to the American worker. Without American working people standing up for these principles, these big companies would have nothing. We would live in a world that would be awash with tyrants, if it wasn't for the American people who defend liberty and justice throughout the world.

But yet these corporations take all of them for granted, just like they take for granted these small inventors. They look at them as nerds. These big executives, who will live in gated communities and go to the country clubs, they look at these inventors as nerds. The creative types are just the creative types. We have seen it over and over again.

That is the way they treat the American people as well, with arrogance and with a total lack of consideration. They go over and they invest in China, when they should be giving jobs, decent paying jobs, to the American people. But their profit margin would be a little less.

By the way, that profit margin that we are talking about, this isn't a profit margin that goes just to their stockholders. We are talking about big corporate billionaires who give themselves huge corporate salaries. And what are they doing? They are putting American workers out of work and sending it over to China.

This bill is their bill. H.R. 1908 will permit them to not only take the jobs to China, but to take the technology that is invented in our country to China to outcompete the workers here that are left.

Ms. KAPTUR. As a member of the Defense Subcommittee, the gentleman might be surprised to learn that today I spent part of my day learning that the U.S. Department of Defense main contract for procurement of tires for our vehicles, defense vehicles, is from a foreign company. And we have very few tire manufacturers left in the United States of America.

I couldn't believe it. The company that is favored, Michelin, is building a facility in China to manufacture tires. I thought, wait a minute. What about Akron, Ohio? What about North Carolina? What about Kansas? What about other places where we make tires in this country? How is it possible that the Department of Defense signs a contract for tires with a foreign company? I have got nothing against Michelin, but what about American jobs and technology?

Mr. ROHRABACHER. The gentlewoman is right on target. What you have to do to understand how evil that is is realize that the Chinese couldn't have built that tire company because they did not have the equipment to do it. We have a major corporation from the United States sending our technology and our equipment over there, where American workers in the past would be able to outproduce low-paid Chinese workers because we had the technology. Our corporate leaders now have sent jobs over there by giving them the technology they need to outcompete American workers.

I will have to say we have a little disagreement on trade in terms of democratic countries, because I don't see anything wrong with trading with democratic countries. What we are referring to right now is something we both totally agree on, how can we have free trade with despotic regimes like China and other dictatorships around the world, where they keep their own people in abject poverty, and we are going to let our corporations take our technology over there, take even our investment there? A lot of times it is done with government-guaranteed loans from our government.

So this is all part of an overall problem, not a problem, but a threat to the American people, and this is a new wrinkle. In H.R. 1908, this is just the part where they are going to take the technology that is invented here immediately over and let their companies overseas steal it and use if, and then say to the inventors, go ahead and sue us. Try to get it.

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Ms. KAPTUR. I share the gentleman's value of free trade among free people, and I also believe it should be a two-way street. So when the United States has a trade imbalance with any country of over $10 billion each of three consecutive years, I think we should go back and see what is wrong with that agreement. I think it ought to be assessed by the administration. I think we should find out what is going wrong. We are not doing that anywhere on the globe. Whether it is China or whether it is Mexico, we are falling into deeper and deeper debt.

I think the measure is a real measure, not just political, but also the bottom line. Are we winning or losing in that trade relationship? If we are losing in that trade relationship, we ought to fix it.

Mr. ROHRABACHER. One thing we know is that today's corporations are far different than in the past. We have corporations that are basically multinational corporations. Yeah, American citizens may lead up these corporations, but they consider themselves to be the head of a huge multinational organization, and their loyalty isn't to the people of the United States, it is to, supposedly, the corporate structure which, of course, could mean that they put thousands of Americans out of work and not give it even a second thought.

We cannot rely on these corporate elites to make the policy that will determine the future of our country. And that is what is happening here. The corporate elite, basically the high-tech billionaires, have come around and written H.R. 1908, and it will be a disaster for the American people if we let this go by because in the long term it will eliminate our technological edge over our competitors.

Ms. KAPTUR. The gentleman was talking about the cheating that is done by many companies globally, and one of the reasons I don't care for the bill that is going to be brought before us is right now there are at least 15 different factors that a court can weigh in assessing fines on companies that cheat, that infringe on someone else's patent. What happens under this bill is these 15 factors that the courts like because it helps them make a judgment in whatever the particulars of the case might be, are reduced to one and the other 14 factors don't really have to be weighed. So there is a significant change in this legislation that would heavily impact on what the courts can do and how they look at a given case.

I will submit this article for the RECORD that talks about Bose's port tube technology being infringed on by JBL as an example of what is happening.

[From Manufacturing & Technology News, June 29, 2007]

COVERING INNOVATION, GLOBALIZATION AND INDUSTRIAL COMPETITIVENESS

PATENT ''REFORM'' IS ANYTHING BUT

(By Pat Choate)

Ironically, Congress is now threatening China with harsh remedies if it does not quickly stiffen its patent protections, even as Congress marks up legislation that will dramatically weaken U.S. patent protections. This bill is the Patent Reform Act of 2007.

This schizophrenic policy is being driven by a group of ''Big Tech'' transnational corporations that repeatedly infringe the patents of others, get sued, lose in court and are then forced to pay billions of dollars in penalties. Now, in response, they are financing an expensive lobbying, propaganda and legal

campaign to weaken U.S. patent laws by passing this Patent ''Reform'' Act. They cleverly call themselves The Coalition for Patent Fairness (CPF); included are large transnational corporations such as Adobe, Microsoft, Cisco, Intel, eBay, Lenovo, Dell and Oracle.

During the period 1993–2005, four of the CPF companies paid out more than $3.5 billion in patent settlements. In the same period, their combined revenues were $1.4 trillion, making their patent settlements only about one-quarter of one percent of their revenues. Now, they wish to reduce even those costs, not by changing their obviously unfair, and often illegal, business practices, but by persuading Congress, and also the Supreme Court, to weaken U.S. patent protections.

These corporations have convinced many members of Congress and many editorial writers that the U.S. patent system is badly broken and that it requires a major legislative overhaul. Supposedly, they say, the U.S. is in the midst of a ''litigation crisis'' where responsible corporations (CPF members) are being penalized by unworthy lawsuits. And, also supposedly, the United States Patent and Trademark Office (USPTO) is issuing massive numbers of unworthy patents that are being used in lawsuits against innovative companies (again, CPF members).

The ''litigation crisis'' and ''unworthy patents'' allegations simply do not hold up under examination.

The real facts of the so-called litigation crisis are that for the past two decades the number of patent lawsuits commenced annually has been about 1.5 percent of all patents granted. In 2006, it was 1.47 percent. This is business as usual. Most patent lawsuits, moreover, settle before trial. In 1979, some 79 percent of patent cases settled before trial, while in 2004 almost 86 percent did. Matters are actually improving.

Also, the U.S. has few patent trials: For instance, in 2001 only 76 patent lawsuits were tried and only 102 went to trial in 2006. By no measure can 102 patent trials be considered a national litigation crisis. The annual report of Federal Judicial Caseload Statistics, which is on the Internet, provides the factual antidote to false claims of a litigation crisis (www.uscourts.gov/caseload2006/contents.html).

As to the massive numbers of ''unworthy patents'' argument, the real-world test is how many patents are challenged and the outcome of those challenges. Between 1981 and 2006 the USPTO issued more than 3.1 million patents. In that period, 8,600 were challenged at the Patent Office through inter partes and ex parte reexaminations. The number challenged amounts to less than three-tenths of one percent. Of those challenged, about 74 percent resulted in claims narrowed or cancelled. In addition, almost 60 percent of the relatively few patents challenged in a court trial are sustained.

My point is that the USPTO's work is certainly not perfect, but the Patent Office is also not pouring out a stream of bad patents.

If there are no patent ''litigation crisis'' and no patent ''quality crisis,'' what is the real purpose of the Patent Reform Act of 2007 legislation before Congress?

A main goal is to legislate changes that will reduce penalties paid by infringers. Under existing law, a patent holder who is infringed upon is entitled to damages adequate to compensate for infringement, but in no event less than a reasonable royalty. The courts now consider a list of 15 factors in that calculation, including apportioning the part of the realizable profit created by the infringed invention versus other factors such as the manufacturing process, promotion, sales or other patents owned by the infringer.

Under this bill, however, Congress mandates that the court ''ensure that a reasonable royalty is applied only to the economic value properly attributable to the patent's special contribution over the prior art'' while only allowing the consideration of the other 14 factors. The bill goes on to require that the court subtract from the analysis ''the economic value properly attributable to the prior art, and other features or improvements, whether or not patented that contribute economic value to the infringing product or service.'' Think of this as a big finger on the scales of justice that favors the infringer.

Often, the infringed component is only one of dozens of parts and contributions that make up the product, but that component may be the very thing that makes the product sell.

JBL infringed Bose's patented port tube technology, for instance, which gives Bose speakers their distinctive clarity. Bose's technology vastly improved the sound of the JBL speakers and drove JBL's sales. Bose sued and won. JBL wanted the royalty determination based on the small value of a cheaply made, plastic port tube. The federal court, however, determined that Bose's technology is what drove JBL's sales and set the damages on the value of the entire speaker system. If the damages were apportioned only to the cost of making the port tube, Bose would have received a tiny fraction of what its invention was worth. If JBL were allowed to subtract the value of all prior art in the damage calculation, which this legislation would allow, Bose would likely have gotten almost zero.

Cutting the damages paid by infringers is the goal of the many serial infringers supporting this provision.

Chief Judge Paul R. Michel of the U.S. Court of Appeals for the Federal Circuit advised Congress in a letter dated June 7, 2007, that the current law on apportionment is stable, works well and is understood by litigators and judges, and that the new proposal would be a radical change that would cause great chaos in the legal system. He noted that this change would require a massive damage trial in every case and a new kind of costly macroeconomic analysis. ''Resulting additional court delays would be severe,'' he wrote, ''as would additional attorneys' fees and costs.'' I think that we can mark him down as opposed.

One other pernicious result is this ''primary factor'' apportionment provision would actually encourage more infringement. Rather than negotiate with a patent owner and pay for use of an innovation, many infringers would simply go ahead and use it, pay nothing and, if caught and proceeded against, then pay a small royalty payment eventually set by a federal judge.

If Congress enacts this provision, it is sanctioning the ''taking'' of a patent owner's property and drastically reducing the price, if anything, an infringer must pay. Think of it as ''self-licensing'' someone else's patent. During the life of a patent, copyright or trademark, there is no difference between real property and intellectual property. A patent belongs to someone. Often it has great value. The owners should decide how it is used and the terms of that use, not the infringers.

A second goal of the proposed legislation is to force the USPTO to publish on the Internet all patent applications 18 months after the date they are filed. Since most patent applications now take an average 31 months to process, the Big Tech corporations that are sponsoring this legislation would get an advanced peek at an applicant's secrets more than a year before the inventor has patent protection, that is, if the patent is even granted, which for half of all applications, it is not. If an infringer took those secrets to China or India or anywhere where patent protection is lax, as many would, the inventor's only recourse would be to go to those countries and file a lawsuit. Few small companies, universities and inventors can afford this.

Foreign pirates find this mandatory publication provision particularly useful. For China, South Korea and many other nations, the USPTO's computer in Arlington, Va., is their primary source of R&D. Many foreign corporations and governments fill a room with computers, engineers and fast Internet connections and then task them with finding new technologies in unprotected U.S. patent applications. The U.S. isn't the only country with this problem; the Japanese Patent Office reports their computers get 17,000 hits per day from China and 55,000 hits per day from South Korea.

When Congress first enacted this 18-month publication requirement in 1999 it also created a loophole. Inventors can opt-out of having their applications published if they agree not to file for any foreign patents. About half of all applications from small businesses, universities and independent inventors select to opt-out. The proposed bill would eliminate this opt-out choice.

The Big Tech corporations also want Congress to change the long-standing practice of the U.S. Patent Office of granting a patent to the first-person-to-invent to the practice used in Europe, Japan, China and elsewhere where the patent goes to the first-person-to-file the patent application.

A firt-to-file system strongly favors big corporations, who have the resources to track every aspect of an invention and file boxes and boxes of materials to support their claims, over small businesses, independent inventors and universities, who do not.

Equally important, this change of systems would create chaos at the USPTO and greatly contribute to the slowing of U.S. innovation. The USPTO would have to create numerous new forms and procedures and retrain its thousands of patent examiners and administrative people, even as it works down a backlog of 750,000 applications. All inventors, companies, patent lawyers and federal judges in the U.S. would be forced to learn this new system, its procedures and rules.

The turmoil created by this shift in the already beleaguered USPTO would guarantee a logjam there—one far greater than the passport backlog fiasco now underway at the State Department.

Incongruously, this legislation also proposes to solve America's supposed patent ''litigation crisis'' by creating a new forum for more litigation. This proposed ''post grant'' opposition process provides an infringer a lowcost means to challenge the very patent it is infringing and allows it to do so over the entire 20 year life of the patent at a lower burden of proof than required in a federal court.

Europe has the very system that Congress is being asked to copy. It is a litigation heaven for the patent bar. The annual European Patent Office (EPO) challenge rate was 5.4 percent of granted patents in 2005. The combination of all USPTO ex parte and inter partes challenges, all interference cases, plus all patent lawsuits commenced calculated as per the number of patents granted produces a comparable U.S. challenge rate of 1.8 percent. The EOP challenge rate is three times that of the United States and that does not count any patent lawsuits in Europe.

Japan dropped this system in 2004 because it created too many lawsuits. Of the many

bad ideas in this legislation, this post grant litigation process is probably the worst.

The principal victims of these and other Patent Reform Act of 2007 proposals will be small entity inventors—small businesses, individual inventors, universities and nonprofit research organizations. Their patents are often the greatest, if not only, assets they hold. Most often, they need ownership of an unchallenged patent in order to get financing to actually develop it. And, when their patent secrets are stolen and used by larger infringers, they are generally unable to finance a lawsuit, particularly if the infringer operates outside the United States.

Yet, it is small entity inventors who file almost 30 percent of all U.S.-origin patent applications and receive 31 percent of all patents granted. Unlike the Big Tech companies, most of these innovators keep their R&D and production in the U.S. They are vital to America's future. But they are fragile. Special consideration of their situation and needs is in the nation's best interest.

Fortunately, many U.S. groups and organizations oppose the Patent Reform Act of 2007. Included are the National Association of Manufacturers, the U.S. Business and Industrial Council, more than 450 venture capital firms, the Big Ten universities, plus dozens of other organizations. The Department of Commerce and the USPTO have written Congress that they do not support eliminating the 18-month opt-out rule, changing to a first-to-file system, altering the apportionment provision or creating a new litigation forum. Unfortunately, all this opposition has mattered little so far and this dangerous legislation is still moving forth in the House and Senate Judiciary Committees.

Each Member of Congress needs to closely examine the Patent Reform Act of 2007 for it will deeply affect every state, every community and every congressional district. We face a historic economic challenge in the global economy. Now is the time for Congress to strengthen U.S. patent protections rather than weaken them.

Mr. ROHRABACHER. People need to know that H.R. 1908 will be coming to the floor on Friday. I call it the ''Steal America's Technology Act,'' and we need to defeat this bill. We need to have the support of the public and of our colleagues, and we are asking for that support today.

I would like to close with one story. It is a story of a statue of a man downstairs. If someone is going through the Capitol, he needs to look at the statue. There are many statues here, but it is a statue of a man named Philo Farnsworth. He was the personification of an individual inventor. He discovered, with his creative genius, the picture tube, the secret that created the picture tube for television. RCA had spent hundreds of millions of dollars trying to find that secret. Philo Farnsworth made the mistake of trusting David Sarnoff, the head of RCA, with the secret, thinking we are going to work together to develop this for all humankind.

Sarnoff immediately cut off all communications with this man and tried to steal this invention, claiming credit for RCA itself. For 20 years, poor Philo Farnsworth, the personification of the little guy, was being beaten down by David Sarnoff because he didn't want to pay the royalties or give the credit to this one little guy, this one lone American.

That case went all the way to the Supreme Court, and the Supreme Court, God bless America, sided with the little guy, sided with Philo Farnsworth and reaffirmed that we are talking about rights that are guaranteed by our Constitution for all our citizens, the big guys and the little guys.

This bill, H.R. 1908, is a big guys' bill designed by the big guys to steal from the little guys and in the long run it will hurt all Americans.

I proudly stand by MARCY KAPTUR and Mr. MANZULLO and others who will be leading, helping us fight this back on Friday. We need everyone's support. We need all constituents to talk to their Congressman on this issue.

Ms. KAPTUR. I thank the gentleman for yielding me time this evening, and I urge my colleagues to vote ''no'' on the patent bill coming up on Friday. Don't weaken U.S. patent protections that are based on our Constitution. Give our inventors and their creativity a chance to flourish for the next generation.

RECESS

The SPEAKER pro tempore (Mr. WALZ of Minnesota). Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 8 o'clock and 20 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 2118

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. WALZ of Minnesota) at 9 o'clock and 18 minutes p.m.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Ms. EDDIE BERNICE JOHNSON of Texas (at the request of Mr. HOYER) for today on account of travel problems.

Mr. PLATTS (at the request of Mr. BOEHNER) for today on account of attending a funeral for a soldier killed in action in Afghanistan.

Mrs. WILSON of New Mexico (at the request of Mr. BOEHNER) for today on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mrs. MCCARTHY of New York) to revise and extend their remarks and include extraneous material:)

Mr. CUMMINGS, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Mr. MCGOVERN, for 5 minutes, today.

Mr. LIPINSKI, for 5 minutes, today.

Mrs. MCCARTHY of New York, for 5 minutes, today.

(The following Members (at the request of Mr. LATOURETTE) to revise and extend their remarks and include extraneous material:)

Mr. POE, for 5 minutes, September 12.

Mr. JONES of North Carolina, for 5 minutes, September 12.

Mr. REICHERT, for 5 minutes, today.

ADJOURNMENT

The SPEAKER pro tempore. Without objection, and pursuant to House Resolution 632, the House stands adjourned until 10 a.m. tomorrow as a further mark of respect to the memory of the late Honorable PAUL E. GILLMOR.

There was no objection.

Accordingly (at 9 o'clock and 19 minutes p.m.), the House adjourned until tomorrow, Thursday, September 6, 2007, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

3110. A letter from the Secretary of the Air Force, Department of Defense, transmitting Notice of the decision to conduct a standard competition of the Precision Measurement Equipment Laboratory function at Andrews Air Force Base, Maryland, Dover Air Force Base, Delaware, Pope Air Force Base, North Carolina, and Scott Air Force Base, Illinois, pursuant to 10 U.S.C. 2461; to the Committee on Armed Services.

3111. A letter from the Assistant Secretary for Reserve Affairs, Department of Defense, transmitting the National Guard ChalleNGe Program Annual Report for Fiscal Year 2006, pursuant to 32 U.S.C. 509(k); to the Committee on Armed Services.

3112. A letter from the Comptroller, Department of Defense, transmitting the Department's quarterly report as of June 30, 2007, entitled, ''Acceptance of contributions for defense programs, projects and activities; Defense Cooperation Account,'' pursuant to 10 U.S.C. 2608; to the Committee on Armed Services.

3113. A letter from the Under Secretary for Personnel and Readiness, Department of Defense, transmitting authorization of the enclosed list of officers to wear the insignia of the grade of major general accordance with title 10, United States Code, section 777; to the Committee on Armed Services.

3114. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting pursuant to section 36(c) of the Arms Export Control Act, certification regarding the proposed technical assistance agreement for the export of technical data, defense services, and defense articles to the Government of Singapore (Transmittal No. DDTC 008-07); to the Committee on Armed Services.

3115. A letter from the Secretary, Department of Housing and Urban Development, transmitting a copy of proposed legislation entitled the Native American and Native Hawaiian Housing Reauthorization and Improvements Act of 2007; to the Committee on Financial Services.

3116. A letter from the Secretary, Department of Housing and Urban Development, transmitting a copy of proposed legislation